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NOVELLUS SYSTEMS, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

HARRY A. CHRISTOV and IGOR SMIRNOV

Plaintiff,

v.

NOVELLUS SYSTEMS, INC.,

Defendants.

Case No.: C05 03566 RMW

**STIPULATION & ORDER REGARDING
TREATMENT OF CONFIDENTIAL
INFORMATION**

The parties hereto, by and through their respective counsel, recognize that Novellus Systems, Inc. possesses, or may possess, information of a confidential and sensitive nature protected from disclosure pursuant to Article 1, Section 1, of the California Constitution as well as common law protections. It may be necessary for the other parties to request such information during discovery proceedings in this matter (the "Action"). To facilitate the exchange of such information without waiving constitutional or other rights, the parties hereto stipulate and agree as is provided in this Order.

A. STIPULATION REGARDING CONFIDENTIALITY

1. **"Confidential Material" Defined.** The term "Confidential Material" as used in this Order shall mean all "writings," as that term is defined in California Evidence Code § 250, whether or not embodied in physical medium, which the designating party and counsel believes in good faith contain information that warrants protection under the standards developed under Federal Rules of

1 Civil Procedure 26 (c).

2 a. In the case of documents and things, and the information contained therein,
3 designation shall be made by the designating party affixing substantially the following legend on any
4 such document or thing: "CONFIDENTIAL."

5 b. In the case of depositions and the information contained in depositions
6 (including exhibits), Confidential Material shall be designated by counsel for the designating party
7 making a statement to such effect on the record in the course of the deposition. If such designation is
8 made, the original and each copy of the transcript shall bear substantially the following legend on the
9 cover thereof: "CONTAINS CONFIDENTIAL MATERIAL. NOT TO BE USED OR DISCLOSED
10 EXCEPT AS EXPRESSLY AUTHORIZED BY ORDER OF THE COURT."

11 c. The designating party and that party's counsel shall make a good faith effort to
12 designate as "Confidential Material" only such documents, information and/or things which the
13 designating party reasonably believes warrant protection under the standards developed under Federal
14 Rules of Civil Procedure 26(c).

15 2. **Authorized Persons.** Confidential Material shall be used solely for the purpose of
16 conducting this litigation and not for any business or other purpose whatsoever. For the purpose of
17 conducting this litigation, Confidential Material shall not be directly or indirectly, in whole or in part,
18 be revealed or disclosed, or made available for inspection or copying except to the following
19 "authorized persons," or as otherwise ordered by the Court:

20 a. The Court and its personnel and any jury impaneled in this action;

21 b. A court reporter transcribing, and an outside person translating at, a deposition
22 in this Action;

23 c. The parties to this Action;

24 d. Attorneys employed or retained by or for the party receiving confidential
25 material, and the support staffs of those attorney, including but not limited to, law clerks, legal
26 assistants, secretaries, clerks, assisting in connection with the preparation or trial of this action, and;

27 e. Such other persons including expert witnesses as the parties may designate
28 through written notice as provided in paragraph 3 below and/or by written stipulation and order of the

1 Court.

2 3. **Notification Required:** All Confidential Material disclosed hereunder shall at all times
3 be retained in the custody of counsel described in 2(c) above. In the event that a party (hereinafter
4 “disclosing party”) deems it necessary to disclose Confidential Material to any person or entity not
5 listed in paragraphs 2(b) and 2(c), it shall so notify all counsel in writing at least fifteen (15) days prior
6 to the proposed date for said disclosure to any person or entity. Said written notice shall include the
7 name and address of the person or entity for which disclosure is sought, the confidential material
8 sought to be disclosed, and a detailed explanation in support of the disclosure. Upon receipt of a notice
9 of disclosure, the receiving party shall have ten (10) days to object to the disclosure and the parties
10 shall in good faith attempt to resolve the objection. If the parties cannot resolve the objection amongst
11 themselves, the objecting party shall present its objection to the Court within ten (10) business days
12 from the receipt by the disclosing party of the other party’s objections. Thereafter, the Court shall
13 either authorize, reject, or impose such conditions, as to any such proposed disclosure, or in the event
14 that objections are made and resolved amicably between the parties, the person proposed to receive
15 disclosure of confidential material shall be deemed as an “authorized person” pursuant to subparagraph
16 2(d) above. The disclosing party shall not disclose any Confidential Material pursuant to this
17 subparagraph absent either written approval of the designating party or a court order allowing
18 disclosure.

19 4. **Use in Court Proceedings.** If a party wishes to file any Confidential Material with the
20 court, that party shall submit the Confidential Material to the court along with a request to file it under
21 seal pursuant to Civil Local Rule 79-5. In the event Confidential Material is used in any court
22 proceeding herein, it shall not lose its confidential status so long as it is not publicly disclosed. The
23 handling of Confidential Materials during any hearings or at trial shall be determined by the judge
24 presiding at the hearing or trial. The parties shall make reasonable efforts to protect the confidentiality
25 of Confidential Materials during any such use.

26 5. **Things to be returned.** Within ninety (90) days of the conclusion of this litigation,
27 including all final appeals, if any, all Confidential Material and all copies, notes, extracts and
28 summaries thereof (excluding pleadings and deposition transcripts) shall be returned to the party

1 producing that material, if so requested in writing at such time by the producing party. Nothing herein
 2 shall require the court to return to any party any documents the court does not normally return to
 3 parties under the court's usual procedures.

4 **B. MISCELLANEOUS**

5 1. **Term.** This Stipulation is binding upon the execution of both parties. This Stipulation
 6 and Order thereon shall remain in effect until further Order of this Court.

7 2. **Modification.** This Stipulation is entered into without prejudice to the right of any
 8 party to apply to the Court at any time for additional protection, or to relax or rescind the restrictions of
 9 this Stipulation. Further, the parties may amend or modify any provision of this Stipulation by mutual
 10 agreement, which agreement shall be embodied in a written stipulation to be approved by this Court.

11 3. **Counterparts.** This Stipulation may be executed in multiple counterpart copies, each
 12 of which shall be deemed an original, and all, when taken together, shall constitute the Stipulation.

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 14
 15 **STIPULATED AND AGREED TO**

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 18 Dated: April 27, 2006

MURPHY, PEARSON, BRADLEY & FEENEY

19
 20 By: /s/ JUSTIN J. SCHNITZLER
 21 Justin J. Schnitzler
 22 Attorneys for Defendant NOVELLUS SYSTEMS, INC.

23 Dated: April 28, 2006

SAMUELSON, WILSON, & ROE

24
 25 By: /s/ CHARLES R. ROE
 26 Charles R. Roe
 27 Attorney for Plaintiffs HARRY CHRISTOV and IGOR
 28 SMIRNOV

ORDER RE STIPULATION

Pursuant to Stipulation and good cause appearing therefore,

IT IS HEREBY ORDERED THAT all discovery in this matter shall be subject to the within
Stipulation regarding the treatment of Confidential Material.

Dated: 5/15/06



United States District Court Judge
Magistrate